

### **REMARKS**

Claims 7-26 are pending in the application. Claim 7 is amended and new claims 24-26 are added with this amendment. Applicants note with appreciation the provisional allowance of claims 9-10, 14-15, 17-18 and 20-21. Reconsideration of the application is respectfully requested based on the following remarks.

#### **I. REJECTION OF CLAIMS 7-13 BASED ON OBVIOUSNESS TYPE DOUBLE PATENTING**

Claims 7-13 were provisionally rejected based on obviousness-type double patenting in view of co-pending U.S. Publication No. 2004/0258137. Applicants respectfully disagree with the characterization that pending claims 7-13 are obvious in view of claims 1-13 of the co-pending application. However, in order to facilitate a timely prosecution of the above application, a terminal disclaimer is included herein, thereby rendering the above issue moot. Accordingly, withdrawal of the rejection is respectfully requested.

#### **II. OBJECTION TO THE DRAWINGS**

The drawings were objected to for failing to include the designation "PRIOR ART." Applicants respectfully disagree with the above characterization of the figures, and submit that such figures reflect various aspects of the present invention, and thus should not be re-labeled as suggested. More particularly, figure 1 illustrates via arrows A, B, C and D various times within a timeslot transmission protocol where the field strength measurement is to be measured. Further, figure 2 illustrates an architecture including an RSSI determination and evaluation unit 9 that may be employed in taking the measurements at the times highlighted in figure 1.

To more clearly highlight that figures 1 and 2 are intended to illustrate aspects of the present invention, the "BRIEF DESCRIPTION OF THE DRAWINGS" portion of the

specification has been amended. Accordingly, withdrawal of the objection is respectfully requested.

**III. REJECTION OF CLAIMS 7 AND 8 UNDER 35 U.S.C. § 103(a)**

Claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,995,816 (Grayson) in view of U.S. Patent No. 6,671,331 (Sakuma). Withdrawal of the rejection is respectfully requested for at least the following reasons.

Claim 7 is directed to a method of determining frequency channel quality. The method comprises transmitting respective data blocks in a predetermined sequence of transmit time intervals and receiving respective data blocks during respective receive time intervals. A received signal strength measurement is made during a time period between the time intervals that the data blocks are transferred *and not during the time intervals* when data block transmission or reception takes place. The combination of Grayson and Sakuma does not teach this feature. As conceded in the Office Action, Grayson does not teach making measurements during the claimed time period. (See, e.g., O.A., 12/06/05, p. 4, ¶2). Sakuma does not teach making measurements during the claimed time interval between time intervals and *not during* the first and second time intervals. A brief explanation of Sakuma and its deficiencies with respect to applicant's claim is provided below.

Sakuma is directed to a method of detecting a carrier signal. As illustrated in Figs. 1 and 2, a received RF signal is fed to a mixing component 23 which outputs an intermediate frequency (IF) signal. (See, e.g., Col. 4, lines 8-25). The IF signal is fed to an RSSI detecting unit 29 that generates a RSSI signal based thereon. (See, e.g., Col. 4, lines 36-45). The details of the RSSI detecting unit 29 is illustrated in greater detail in Fig. 2. In Fig. 2 the IF signal is input to an RSWSI always cumulating circuit 102 and an RSSI block cumulating circuit 101. As highlighted in Sakuma, the RSSI block cumulating circuit 101 cumulates the signal during a time period in which a burst signal

is not received, and a level raising circuit 103 then raises the level of the RSSI signal by a predetermined value to generate a threshold value A. (See, e.g., Col. 5, lines 3-10).

In addition, the RSSI continuous cumulating circuit 102 ***continuously cumulates the RSSI signal*** at each clock pulse (and thus ***during*** transmission or reception of a data block) and generates a resultant output signal B to a comparing circuit 104. (See, e.g., Col. 5, lines 11-15). The comparing circuit 104 compares the output signal B with the threshold value A and outputs a carrier detection signal in response thereto. (See, e.g., Col. 5, lines 15-18). Therefore to the extent that Sakuma make a received signal strength measurement, such measurement is not made ***solely*** in a time period between the first and second time intervals as claimed. Therefore claim 7 is neither taught nor suggested by the combination of Grayson and Sakuma. In addition, one of ordinary skill in the art would not be motivated to modify Sakuma in accordance with the claimed invention because doing so would render Sakuma inoperable, since no comparison to a threshold could then be made as taught in Fig. 2. Accordingly, withdrawal of the rejection is respectfully requested.

In addition, new claim 24 recites measuring reception field strength directly before or directly after transmission or reception of the data block ***and not during transmission or reception of the data block***. As highlighted above, Sakuma measure the reception field strength during transmission or reception of a data block *via* the continuous cumulating circuit 102. Therefore claim 24 is non-obvious over the cited combination of Grayson and Sakuma for at least the same reasons highlighted above. Accordingly, allowance of claims 24-26 is respectfully requested.

#### **IV. REJECTION OF CLAIMS 11-13, 16, 19 AND 22-23 UNDER 35 U.S.C. § 103(a)**

Claims 11-13, 16, 19 and 22-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Grayson and Sakuma, and further in view of one or more of the following: U.S. Patent No. 6,683,886 (Van der Tuijn et al.; claims 11, 16, 19 and 22), U.S. Patent No. 6,118,805 (Bergstron et al.; claim 12), U.S. Patent No. 5,323,447 (Gillis

et al.; claim 13), and U.S. Patent No. 6,859,761 (Bensky et al.; claim 23). Withdrawal of the rejection is respectfully requested for at least the following reasons.

As highlighted above neither Grayson nor Sakuma teach or suggest the invention of independent claim 7, and the secondary references highlighted above do not remedy the deficiencies of the primary art. Further, even if one or more of the references did teach making a received strength measurement solely during a time period between the data block transmission or reception and not during such data block transmission or reception, such a combination with Sakuma would be improper because a modification of Sakuma in such a manner would render the reference inoperable for its intended purpose. Therefore the above claims are also non-obvious over the cited art. Accordingly, withdrawal of the rejection is respectfully requested.

V. CONCLUSION

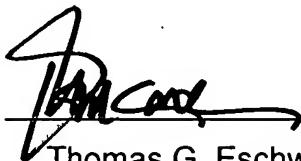
For at least the above reasons, the claims currently under consideration are believed to be in condition for allowance.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this response, the Commissioner is hereby authorized to charge the Deposit Account Number 50-1733, EHFP116US.

Respectfully submitted,  
ESCHWEILER & ASSOCIATES, LLC

By



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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper or item referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first-class mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date March 6, 2006



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Christine Gillroy